

House Bill 1441

By: Representatives Sinkfield of the 60th, Manning of the 32nd, Ashe of the 56th, Smith of the 70th, Orrock of the 58th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, so as to provide for income exclusions and tax credits with respect to individual development accounts; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner and the commissioner of community affairs with respect to the foregoing; to amend Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to the Department of Community Affairs, so as to provide for the comprehensive regulation of individual development accounts and programs; to provide for definitions; to provide for procedures, conditions, and limitations with respect to the creation and operation of such accounts; to provide for powers, duties, and authority of the department; to provide for powers, duties, and authority of certain fiduciary organizations; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, is amended by adding a new Code section immediately following Code Section 48-7-29.9 to be designated as Code Section 48-7-29.10, to read as follows:

"48-7-29.10.

There shall be allowed to each charitable donor making a contribution to a reserve account on behalf of an individual development account program pursuant to Article 7 of Chapter 8 of Title 50 an income tax credit with respect to the income taxes imposed under this chapter in an amount equal to 50 percent of the total monetary contribution paid during

1 such income tax year by a charitable donor to the reserve account on behalf of an individual
2 development account program or owner in this state.

3 (b) In no event shall the total amount of the tax credit under this Code section for a taxable
4 year exceed the taxpayer's income tax liability. Any unused tax credit shall be carried
5 forward for up to five taxable years to apply to the charitable donor's succeeding years' tax
6 liability. No such tax credit shall be allowed the charitable donor against prior years' tax
7 liability.

8 (c) The commissioner shall allow the commissioner of community affairs and the fiduciary
9 organization administering the individual development account program to allocate the
10 available credit among the charitable donors. In no event shall the aggregate amount of
11 credits allocated and allowed to taxpayers in any taxable year exceed \$4 million. Once the
12 credit ceiling of \$4 million is reached, no further tax credits will be allocated and allowed
13 under this Code section for that year.

14 (d) All claims for the credit provided by subsection (a) of this Code section shall be
15 accompanied by a certificate approved by the Department of Community Affairs and any
16 fiduciary organization administering the individual development accounts, verifying the
17 amount of credit allocated.

18 (e) Moneys withdrawn by the taxpayer from an individual development account for an
19 approved purpose, as described in Code Section 50-8-170, are excluded from the tax
20 imposed under this chapter. A withdrawal by a taxpayer for a purpose other than such an
21 approved purpose shall not be allowed the exclusion under this subsection.

22 (f) The commissioner shall promulgate any rules and regulations necessary to implement
23 and administer this Code section."

24 **SECTION 2.**

25 Chapter 8 of Title 50 of the Official Code of Georgia Annotated, relating to the Department
26 of Community Affairs, is amended by striking Article 7, which is reserved, and inserting in
27 its place a new Article 7 to read as follows:

28 **"ARTICLE 7**

29 50-8-170.

30 As used in this article, the term:

1 (1) 'Charitable donor' means a person, business, or corporation who contributes to the
2 reserve account for the purposes of individual development account programs in this
3 state.

4 (2) 'Eligible individual or family member' means one whose household income is equal
5 to or less than 80 percent of the median household income for the area or less than 200
6 percent of the federal poverty guidelines, whichever is greater, who enters into an
7 agreement developed with a fiduciary organization for the establishment of an individual
8 development account. The agreement must provide for the amount of savings deposits,
9 the matching rate, the asset goal, and the financial literacy education classes to be
10 completed, additional training specific to the asset, and financial counseling the
11 individual will attend, as well as other services designed to increase the financial
12 independence of the person through achievement of the account's approved purpose and
13 such other situations specified by rules and regulations of the department.

14 (3) 'Fiduciary organization' means any nonprofit fundraising organization that is exempt
15 from taxation under Section 501(c)(3) of the Internal Revenue Code, as amended; any
16 community development financial institution certified by the Community Development
17 Financial Institution Fund; any credit union chartered under federal or state law; or any
18 Indian tribe as defined in Section 4(12) of the Native American Housing Assistance and
19 Self-Determination Act of 1996 (25 U.S.C. Section 4103(12)), and includes any tribal
20 subsidiary, subdivision, or other wholly owned tribal entity.

21 (4) 'Financial institution' means a bank, trust company, savings bank, building and loan
22 association, savings and loan company or association, credit union, or any financial
23 institution approved by the department.

24 (5) 'Individual development account' means an account established for an eligible
25 individual or family member as part of a qualified individual development account
26 program by an agreement, with the following requirements:

27 (A) The owner of the funds in the individual development account is the individual or
28 family member for whom the account was created;

29 (B) The holder of the account is a qualified financial institution;

30 (C) The assets of the account will not be commingled with other property except in a
31 common trust fund or common investment fund; and

32 (D) Any amount in the account will be paid out only for the purpose of paying the
33 qualified purposes of the account owner, except if it meets the qualifications of an
34 emergency use.

(6) 'Lead fiduciary organization' means a fiduciary organization that has been selected by the department to administer all or a portion of the department's responsibilities under this article.

(7) 'Qualified purposes' means using the account owner's accumulated savings and matching funds for any of the following:

(A) Securing postsecondary education, including, but not limited to, community college courses, courses at a four-year college or university, 529 college plans, or postcollege or graduate courses for the account owner or any member of the account owner's family;

(B) Securing postsecondary occupational training, including, but not limited to, vocational or trade school training for the account owner or any member of the account owner's family;

(C) Purchasing a home for a primary residence; and

(D) Business capitalization.

(8) 'Reserve account' means a separate account for all matching funds and earnings dedicated to individual development account owners, the sole holder of which is a qualified financial institution, a qualified fiduciary organization, or an Indian tribe.

50-8-171.

Once the account owner has saved for a minimum of six months, reached his or her savings goal, and fulfilled all financial literacy education components, the account owner's savings will be matched and the total amount will be transferred from the reserve account directly to the vendor or service provider through whom the account owner is paying for a qualified purpose.

50-8-172.

(a) If an emergency occurs, an account owner may withdraw all or part of the account owner's deposits to an individual development account with the approval of the fiduciary organization.

(b) The account owner must reimburse his or her individual development account for the amount withdrawn under this Code section within 12 months after the date of the withdrawal. Until the timely reimbursement has been made in full, an account owner may not withdraw any matching funds or accrued interest on matching funds from the reserve account. Upon a failure of an account owner to make a timely reimbursement to the individual development account, matching funds shall be forfeited.

(c) If an account owner withdraws moneys from an individual development account for other than a qualified purpose, the fiduciary organization may remove the account owner from the program.

(d) Before becoming eligible to draw down matching funds to pay for qualified purposes, individual development account owners must complete a financial literacy education course offered by a qualified financial institution, a qualified fiduciary organization, an Indian tribe, or a government entity.

(e) In no event shall the charitable donor be able to designate an individual development account owner with whom the charitable donor shares a financial or familial relationship.

50-8-173.

Deposits to individual development accounts made by the account owner shall not exceed the amount specified in the administrative rules established by the department and must come from earned income, including, but not limited to, child support payments, supplemental security income payments, disability benefits, community service under temporary assistance to needy families, and job training program stipends or such other sources as specified by the department.

50-8-174.

The department may select fiduciary organizations, including a lead fiduciary organization, through competitive processes. In making the selections, the department may consider factors including, but not limited to:

(1) The ability of the fiduciary organization to implement and administer the individual development account program, including the ability to verify account owner eligibility, certify that matching funds are used only for qualified purposes, and exercise general fiscal accountability;

(2) The capacity of the fiduciary organization to provide or raise matching funds for the deposits of account owners;

(3) The capacity of the fiduciary organization to provide financial counseling, financial literacy education and training specific to the assets the account owners will be purchasing, and other related services to account owners;

(4) The links the fiduciary organization has to other activities and programs designed to increase the independence of this state's low-income households and individuals through education and training, home ownership, small business capitalization, and other asset building programs; and

(5) The feasibility of the fiduciary organization's program design, including matching rates and savings goals, to lead to asset purchase.

50-8-175.

Subject to department rules, a fiduciary organization has sole authority over, and responsibility for, the administration of individual development accounts. The responsibility of the fiduciary organization extends to all aspects of the account program, including marketing to eligible individuals and families, soliciting matching funds, counseling account owners, providing financial literacy education, and conducting required verification and compliance activities. The fiduciary organization may establish program provisions as the organization believes necessary to ensure account owner compliance with this article:

(1) A fiduciary organization may act in partnership with other entities, including businesses, government agencies, nonprofit organizations, community development corporations, community action programs, housing authorities, and congregations to assist in the fulfillment of fiduciary organization responsibilities under this article;

(2) A fiduciary organization may use a reasonable portion of moneys as defined by the department allocated to the reserve account for administration, operation, and research and evaluation purposes, including, but not limited to, the purchase of data collection software such as management information system for individual development accounts; and

(3) A fiduciary organization selected to administer moneys directed by the state to individual development account purposes or receiving tax deductible contributions may provide the department with an annual report based on regularly collected data of the fiduciary organization's individual development account program activity. The report may be filed no later than 90 days after the end of the fiscal year of the fiduciary organization. The report may include, but is not limited to:

(A) The number of individual development accounts administered by the fiduciary organization;

(B) The amount of deposits and matching funds for each account;

(C) The number of withdrawals made and purposes for withdrawals; and

(D) Any other information the department may require for the purpose of making a return on investment analysis.

50-8-176.

(a) Financial institutions holding individual development accounts may at a minimum:

1 (1) Keep the account in the name of the account owner;

2 (2) Permit deposits to be made in the account; and

3 (3) Require the account to earn a specified minimum market rate of return.

4 (b) Financial institutions holding individual development accounts may maintain the
5 individual development accounts without charging fees for such accounts.

6 50-8-177.

7 An account owner's savings and matching funds shall not affect his or her eligibility for
8 any means tested public benefits, including, but not limited to, Medicaid, state children's
9 health insurance programs, temporary assistance to needy families, food stamps,
10 supplemental security income, or government subsidized foster care and adoption
11 payments, child care, or housing payments.

12 50-8-178.

13 (a) A fiduciary organization selected under this article may qualify as the recipient of
14 donations made by charitable donors that qualify the donor for a tax credit under Code
15 Section 48-7-29.10 so long as the fiduciary organization holds the matching funds it
16 receives in a reserve account.

17 (b) If federal funds under 42 U.S.C. Section 604, or other similar funds requiring a match
18 by the grant recipient, are available to be matched using the reserve account moneys, then
19 the amount necessary for that match may be placed in a separate reserve account that meets
20 the requirements to draw down the federal funds under 42 U.S.C. Section 604 or other
21 funds.

22 (c) If an account owner is in violation of Code Section 50-8-172, then all matching funds
23 accrued and the interest on matching funds shall revert to the fiduciary organization.

24 (d) The department may seek cooperation from other state departments to fund the reserve
25 account.

26 50-8-179.

27 The department may make all reasonable and necessary rules to ensure the fiduciary
28 organization's compliance with this article."

29 **SECTION 3.**

30 This Act shall become effective on January 1, 2007, and shall be applicable to all taxable
31 years beginning on or after that date.

1 **SECTION 4.**

2 All laws and parts of laws in conflict with this Act are repealed.